

<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,</p> <p>Complainant,</p> <p>v.</p> <p>AT&amp;T COMMUNICATIONS OF THE MIDWEST, INC.,</p> <p>Respondent.</p>	<p>DOCKET NO. FCU-02-15 (C-02-171)</p>
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(Issued August 19, 2002)

On May 1, 2002, Ms. Amber Hutchinson filed a written complaint with the Board, alleging that the presubscribed long distance service at her residence had

been changed to AT&T without her authorization. Board staff identified the matter as C-02-171 and, pursuant to Board rules, on May 3, 2002, forwarded the complaint to AT&T and Ms. Hutchinson's local exchange carrier, Iowa Telecommunications Services, Inc. (Iowa Telecom), for response.

Iowa Telecom responded on May 10, 2002, with a copy of a Preferred Interexchange Carrier (PIC) change order dated March 20, 2002, directing that Ms. Hutchinson's interLATA and intraLATA long distance carrier be changed to AT&T. Iowa Telecom further indicated that based upon the complaint, it had applied a credit of \$10.50 to the customer's account for two of the PIC change charges.

AT&T responded on May 21, 2002, stating that the company had investigated the claim and concluded there was no slam because AT&T has a recording of a third party verification for the change in service, recorded on March 16, 2002. AT&T further states that it attempted to contact the customer on May 14, 2002, and May 20, 2002, and successfully contacted the customer on May 21, 2002, at which time the recorded verification was played for the customer. The customer stated that the customer birth date given on the verification is not correct. While not admitting liability, AT&T credited the customer's account for the total bill amount and sent the customer a check in the amount of \$20.00 to reimburse the customer for the PIC change charges.

On May 24, 2002, Board staff forwarded a copy of the third party verification to the customer, asking that the customer review the tape and respond in writing by June 4, 2002. No response was received, and on July 1, 2002, Board staff issued a

proposed resolution finding that the customer had not disputed the verification and proposing no relief beyond what Iowa Telecom and AT&T had already provided.

On July 15, 2002, Consumer Advocate filed a request for formal proceeding, alleging that the customer denies that the voice on the third party verification recording is hers and that the customer's birth month and date are not as stated on the verification recording. Consumer Advocate does not appear to take issue with the proposed resolution (in fact, the request does not even acknowledge the existence of the proposed resolution). Instead, Consumer Advocate merely alleges that there is reasonable ground for formal investigation of the complaint. The only relief requested is that the matter be docketed "for the purpose of investigating whether the consumer's authorization for the change was obtained and for such other purposes as may be necessary to bring the matter to a proper resolution."

The Board will deny the request for formal proceedings. Iowa Code § 476.3 (2002) requires that the Board grant a request to initiate a formal proceeding if there is any reasonable ground for investigating the complaint. Consumer Advocate has not offered any reasonable ground for further investigation of this matter. The request for formal proceedings fails to address the proposed resolution or to request, or even suggest, any specific remedy beyond what has already been done. In the absence of any such request, there is no basis for further investigation of this matter.

AT&T's response indicates that the customer disputed at least one part of the third party verification recording. However, the customer's failure to respond to Board staff regarding the validity of the verification indicates, at the very least, that the

customer is satisfied with the resolution and does not wish to pursue this matter further. Consumer Advocate has not identified any reason to disturb those wishes.

The Board acknowledges that there is a slight possibility that there is more to this situation than meets the eye, but it is at least as likely that further investigation would not result in any change in the proposed resolution. In slamming complaints, in particular, it will almost always be true that a formal investigation might turn up some interesting information, but if the Board were to accept that mere possibility as sufficient to establish reasonable grounds for investigation, then the requirements of § 476.3 would be rendered meaningless. That result should be avoided.

**IT IS THEREFORE ORDERED:**

The "Request For Formal Proceeding" filed on July 15, 2002, by the Consumer Advocate Division of the Department of Justice is denied, pursuant to Iowa Code §§ 476.3 and 476.104 (2001).

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

Dated at Des Moines, Iowa, this 19<sup>th</sup> day of August, 2002.